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NOTICE

The undermentioned Gazettes of India Extraordinary were published during the week ending the 29th November 1950:—

S. No.	No. and Date	Issued by	Subject
1	No. 104/50-Elec., dated the 18th November 1950.	Election Commission, India.	Extension of period upto 23rd December 1950 for submitting claims and objections in some States *re.* electoral rolls.
	No. 24/50-Elec. (54), dated the 18th November 1950.	Ditto	Preparation of electoral rolls in the areas within the State of Mysore.
	No. 24/50-Elec. (53), dated the 18th November 1950.	Ditto	Appointment of Electoral Registration Officers for the preparation of the electoral rolls for the electoral units in the State of Mysore.
	No. 105/50-Elec., dated the 18th November 1950.	Ditto	Submission of claims or objections in respect of the electoral roll to the Deputy Collector or Tahsildar in the State of Hyderabad.
2	No. I(3), dated the 18th November 1950.	Ministry of Rehabilitation.	List of intending evacuee under *section 19 of the Administration* of Evacuee Property Act, 1950.
	No. 4506-TT., dated the 18th November 1950.	Ministry of Railways.	Appointment of a judge to institute a judicial enquiry to determine the cause of accident to 320 Down Goods and 7 Up Toofan Express trains.
3	No. 104/1/50-Elec., dated the 20th November 1950.	Election Commission, India	Extension of period upto 23rd December 1950 for submitting claims and objections in certain States *re.* electoral roll.
	No. 24/50-Elec./39/40-I., dated 20th November 1950.	Ditto	Submission of claims or objections in respect of the electoral roll to Parpattigar in the State of Coorg.
	No. 104/1/50-Elec., dated the 21st November 1950.	Ditto	Extension of period upto 23rd December 1950 for submitting claims and objections in the State of Bilaspur *re.* electoral roll.
	No. 104/1/50-Elec., dated the 22nd November 1950.	Ditto	Extension of period upto 23rd December 1950 for submission of claims and objections *re.* electoral roll in the State of Rajasthan
	No. 24/50-Elec. (56), dated the 23rd November 1950.	Ditto	Preparation of electoral rolls in the State of West Bengal.
	No. 24/50-Elec. (55), dated the 23rd November 1950.	Ditto	Appointment of Electoral Registration Officers for the preparation of electoral rolls in the State of West Bengal.
	No. 81/50-Elec., dated the 23rd November 1950.	Ditto	Appointment of officers for the preparation of electoral rolls in the State of Madras.
6	No. 53-ITC/50, dated the 25th November 1950.	Ministry of Commerce	Open General Licence No. XXI

Copies of the Gazettes Extraordinary mentioned above will be supplied on indent to the Manager of Publications, Civil Lines, Delhi. Indents should be submitted so as to reach the Manager within ten days of the date of issue of this Gazette.

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PART I—Section 1

Notifications relating to Non-Statutory Rules, Regulations and Orders and Resolutions issued by the Ministries of the Government of India (other than the Ministry of Defence) and by the Supreme Court

MINISTRY OF LAW

New Delhi, the 21st November 1950

No. F.76(1)/50-C.—Whereas the validity of the election of Dr. Y. S. Parmar as a representative of Himachal Pradesh in the Provisional Parliament has been called in question by an election petition presented by Shri Tej Singh, son of Param Dev Ji, resident of Mandi, under rule 12 of the Provisional Parliament (Filling of Casual Vacancies and Election Petitions) Rules, 1950, read with rule 31 of the said Rules;

And whereas in accordance with the provisions of sub-rule (3) of rule 28 of the said Rules the Election Tribunal appointed by the Election Commission for the trial of the said petition has duly submitted its report to the Election Commission and the said report has been forwarded by the Election Commission to the President;

Now, therefore, in pursuance of sub-rule (4) of rule 28 of the said Rules, the President is pleased hereby—

(1) to declare that the said Dr. Y. S. Parmar was duly elected,

(2) to direct that the said Dr. Y. S. Parmar and Shri Tej Singh shall bear their own costs, and

(3) to publish the said report as an annexure to this Notification.

ANNEXURE

REPORT OF THE ELECTION TRIBUNAL, SIMLA

ELECTION PETITION No. 1 OF 1950

Shri Tej Singh, S/o Param Dev Ji, Resident of Mandi, Himachal Pradesh—Petitioner.

Versus

Dr. Y. S. Parmar, Resident of Nahan, District Sirmor, Himachal Pradesh—Respondent.

In October 1948, Dr. Y. S. Parmar, who is the Respondent in this case, was elected to the Constituent Assembly of India from Himachal Pradesh. On the petition of one Satya Dev, however, the Credentials Committee held the election void and in consequence the President of the Constituent Assembly declared the seat vacant on 10th September 1949 and sent a written request to the Chief Commissioner, Himachal Pradesh on 20th September to proceed to fill the vacancy by election. It is common ground that under the rules then in force the Chief Commissioner, Himachal Pradesh, was to form an Electoral College to elect the member. On 8th December 1949, the Chief Commissioner notified that an Electoral College of not more than 20 members will be formed, these members to be nominated by the Chief Commissioner himself and on 29th December 1949, 18 members from the four districts of Himachal Pradesh were nominated including Dr. Y. S. Parmar. The Electoral College was called to meet at Himachal Dham on 10th January 1950. Seventeen members attended. The Deputy Commissioner of Mahasu District had been appointed as Returning Officer by the Chief Commissioner and he presided at the meeting of the Electoral College. Three names, including that of Dr. Parmar, were proposed. Eleven of the members voted for Dr. Parmar while the others did not vote, having in fact withdrawn from the meeting in protest. The ballot papers were counted immediately after the voting and Dr. Parmar was declared elected. In due course, information was sent to the President of the Constituent Assembly and on 24th January, 1950, a notification was issued from the Constituent Assembly that Dr. Parmar had been duly chosen to fill the vacancy that had occurred on his earlier unseating. On 24th January, 1950, Shri Tej Singh, a member of the Electoral College, filed this election petition seeking to upset the election. It was in due course forwarded to the Election Commission who appointed this Tribunal to try the petition.

The Petition states that the Chief Commissioner, Himachal Pradesh, acted illegally and improperly in confining his selection of the members of the Electoral College to the four districts of Himachal Pradesh, that in fact the constituency consisted of not only Himachal Pradesh but also Bilaspur and the Chief Commissioner was bound to consider some persons from Bilaspur for the Electoral College. It then states that certain irregularities were committed in the course of the proceedings of the election by the Returning Officer, which have affected the election. The Petitioner further alleges that the Respondent was guilty of certain corrupt practices, in so far as he lavishly entertained some members of the Electoral College at the Royal Hotel, Simla, during the days immediately preceding the election, from the funds of the Congress Committee, that he provided for a car and 60 gallons of petrol to

fetch a member of the Electoral College from Pathankot to Simla, and further that he engineered a resolution by the Provincial Congress Committee supporting his candidature, which resulted in exerting undue influence on the members of the Electoral College, who belonged to the Congress party.

The Respondent denies these allegations, and claims that the election was perfectly in order and there was no irregularity or illegality committed at the time of the election or in the formation of the Electoral College. He has further pleaded that the present Petition was never properly presented.

On the pleadings we agreed to frame the following issues:—

1. Has the Petition not been properly presented according to the rules and if so, what is the result?
2. Did the Chief Commissioner, Himachal Pradesh act wrongly in restricting the nominations to the Electoral College, to persons belonging to the four districts of Himachal Pradesh only and thereby ignoring representatives from Bilaspur, which forms part of the same Constituency?
3. If so, has the election been materially affected by this procedure followed by the Chief Commissioner?
4. Did the Chief Commissioner, Himachal Pradesh act illegally in so far as he restricted nominations to the Electoral College to the four districts of the Himachal Pradesh ignoring Bilaspur altogether? If so, is the result of election held by such an Electoral College vitiated by such illegality?
5. Is the Petitioner not entitled to challenge the constitution of the Electoral College by the Chief Commissioner, even if it was in violation of the rules?
6. Was the procedure of election held on 10th January 1950, irregular in any respect and particularly because no dates were fixed for nomination of candidates or for scrutiny of nominations or for enabling the proposed candidates to withdraw or give their consent and is the election therefore void?
7. Did the Returning Officer commit serious irregularities in the procedure for holding the election and has the result of election been materially affected thereby? What is the effect?
8. Has the Respondent been guilty of the corrupt practice of undue influence by giving out that his election had the support of the Congress?
9. Were any members of the Electoral College lavishly entertained by the Respondent at the Royal Hotel, Simla, at the expense of the Congress Committee and if so, does it amount to a corrupt practice committed by the Respondent?
10. Did the Respondent, by a misrepresentation of facts, draw 60 gallons of petrol, which was utilised in sending a car for two voters of Mandi for their journey from Nahan to Pathankot and from Pathankot to Simla and back, and does this amount to a corrupt practice committed by the Respondent?
11. Did the Respondent as President of the Provincial Congress Committee fraudulently get a resolution passed on 10th January 1950, putting up himself as a Congress candidate and if so, what is the effect?
12. If the alleged corrupt practices are proved, is the Respondent also liable to disqualification?
13. Is either party entitled to special costs?

Issue No. 1.

As far as the first issue is concerned, it is sufficient to point out that the Petition was received by a Deputy Secretary to the Constituent Assembly (Shri Jugal Kishore Khanna, R.W. I) and his evidence is that he received instructions on the telephone from the Private Secretary to the President of the Constituent Assembly to receive the Petition. There is also the sworn testimony of Shri B. M. Sauhta, Attorney of the Petitioner, that the Petition was actually presented to the President who however directed that it may be handed over to the Deputy Secretary concerned, so that it is clear that the Petition was duly presented to the President. Apart from this it does not appear to us that this kind of objection can be taken before this Tribunal as the Election Petition has been sent to us by the Election Commission for trial and we have to take it that the Petition had been properly presented.

Issues No. 2—5.

The next four issues are connected and can be conveniently disposed of together. The dispute involved in these issues has arisen in this way. At the time the vacancy occurred in September 1949, the relevant rule governing the matter was contained in Rule 5-A of the Rules of Procedure and Standing Orders—Constituent Assembly of India—and paragraph 4 of the Schedule to these rules. Rule 5-A was in these words:—

> "When a vacancy occurs by reason of death, resignation or otherwise in the office of a member of the Assembly representing an Indian State or more than one Indian State specified in column 1 of the Annexure to the Schedule to these rules, the President shall notify the vacancy and make a request in writing to the authority specified in the corresponding entry in column 3 of that Annexure to proceed to fill the vacancy as soon as may reasonably be practicable by election or by nomination, as the case may be, in the case of the States specified in Part I of the said Annexure, and by election in the case of the States specified in Part II of that Annexure."

The States comprising Himachal Pradesh were in Part II of the Annexure.

The relevant portion of paragraph 4 of the Schedule was in these words:—

> "All vacancies in the seats in the Assembly allotted to the States specified in column 1 of Part II of the Annexure to this Schedule shall be filled by election and the representatives of such States to be chosen to fill such seats shall be elected by the elected members of the Legislatures of the States concerned, or where such Legislatures do not exist, by the members of Electoral Colleges constituted in accordance with the provisions made in this behalf by the authorities specified in the corresponding entries in column 3 of that Part."

On 6th December 1949 *i.e.* after the President had made a request in writing to the Chief Commissioner, Himachal Pradesh to proceed to fill the vacancy by election and while the matter was yet pending before that authority, the President substituted a new paragraph for the existing paragraph 4 in the Schedule. The new paragraph ran thus:—

> "All vacancies in the seats in the Assembly allotted to the States specified in column 1 of Part I of the Annexure to this Schedule shall be filled by persons elected by the elected members of the legislatures of the States concerned or, where such legislatures do not exist, by persons nominated by the authorities specified in the corresponding entries in column 3 of that Part."

At that very time the Annexure to the Schedule was amended. Himachal Pradesh was taken out of Part II of the Annexure and transferred to Part I, and also Bilaspur which along with a number of other States was in Part II, was taken out of that group and placed in Part I along with Himachal Pradesh and one single seat was allotted to these two States. On 7th December a new rule 5-A was enacted to take the place of old rule 5-A but there was no substantial alteration in the language of that rule. The Petitioner's contention is that after 6th December 1949, the constituency formerly comprising Himachal Pradesh alone became a larger constituency and comprised Himachal Pradesh and Bilaspur and therefore the Chief Commissioner, Himachal Pradesh while forming an Electoral College for filling this vacancy was bound to consider not only Himachal Pradesh but also Bilaspur for the purpose of nominating members to the Electoral College, Before considering this argument it becomes necessary to dispose of another contention raised by the learned Counsel for the Petitioner during the course of the arguments for the first time. The contention is that in view of the change in paragraph 4 of the Schedule, it was no longer competent for the Chief Commissioner to constitute any Electoral College, for the rule contained in new paragraph 4 required that the vacancy be filled by direct nomination by the Chief Commissioner. There was some discussion before us whether the language of the new paragraph 4 really meant that the vacancies in the seats allotted to the States where there were no Legislatures were to be filled by persons nominated by the appropriate authority, which would admittedly be the Chief Commissioner Himachal Pradesh in this case, or whether such vacancies were to be filled by persons elected by persons nominated by that authority. On a careful reading of the language employed, we have come to the conclusion that the correct meaning is that for the States, where no Legislatures exist, the vacancies are to be filled by persons nominated by the appropriate authority. We say this because it appears to us that

the operative verb employed in the sentence is "filled" and the following clauses merely lay down the method of filling the vacancies and the method is nomination by the authorities specified in the appropriate entries in case of States where Legislatures do not exist. We therefore agree with the learned Counsel for the Petitioner that his reading of the new paragraph 4 is correct. The question, however, arises and that is the substantial question whether the matter of filling the vacancy which is in dispute in this case was to be governed by the provision contained in the new paragraph which came into being for the first time on 6th December or whether it was governed by the previously existing rule which admittedly was in force when the vacancy occurred and when the President of the Constituent Assembly made a request to the Chief Commissioner to fill the vacancy by election. In other words the question is whether the new paragraph 4 of the Schedule was to govern not only vacancies occurring after the 6th December 1949 but also vacancies that may have occurred previously and for the filling of which arrangements were pending. We find that there is nothing in the language of paragraph 4 to give any indication that the rule making authority intended that the vacancies pending at the time were to be governed by the new rule. As we understand it, the ordinary rule of interpretation of Statutes is that an enactment or a rule having the force of law is not to be taken retrospectively unless such an intention appears clearly from the language of the enactment or the rule. The same principle has been embodied in section 6 of the General Clauses Act, 1897, which clearly lays down that the repeal of an Act or regulation shall not affect any right or privilege acquired under the repealed enactment nor affect any pending investigation or legal proceedings unless of course a contrary intention appears from the repealing enactment. In the present case it is clear that the vacancy in the seat occurred in September 1949 and a request in writing was made by the President on 20th September 1949 to fill that vacancy. This vacancy was, under the existing rules, to be filled by election by an Electoral College to be formed by the Chief Commissioner. The proceedings had thus started and we do not see why those proceedings should not have continued in accordance with the rule which was then in force. Had the intention of the rule making authority been that even pending proceedings were to be governed by the new rule, we have little doubt that the rule making authority would have clearly said so in the new rule. In fact we find that in the rules framed for the filling of casual vacancies in the Provisional Parliament published on 5th April 1950, the rule making authority intending to give retrospective effect to a similar rule has used very clear language to make that intention apparent. Rule 10 thereof says "where a notification has been issued or a request has been made by the President of the Constituent Assembly of India, for the filling of a casual vacancy in the seat of a member, under the rules relating to the filling of such vacancies in the Constituent Assembly of India and at the commencement of the Constitution the said vacancy has remained unfilled, the provisions of these rules shall apply to the filling of that vacancy as if the said notification has been issued or the said request has been made under the corresponding provisions of these rules". We feel that very similar language would have been used in paragraph 4 enacted on 6th December 1949, had it been intended that the vacancy which had been notified and for the filling of which a request had been made to the appropriate authority long before then, was to be filled in accordance with that new rule. Our conclusion, therefore, is that the true interpretation of the new paragraph 4 is that its provisions were to govern only the vacancies occurring after that date and were not to have any retrospective effect. In this conclusion we are fortified by the very significant circumstances that although the new rule involved a considerable departure from the old rule and the proceedings for the filling up of the vacancy in question were yet pending, the President of the Constituent Assembly, who was the rule making authority, did not think it necessary to issue any fresh request or notification, which is a clear indication that it was not thought that the new rule at all concerned pending matters. On this view of the matter we are unable to accept learned Counsel's contention that the vacancy in this case should have been filled by direct nomination by the Chief Commissioner, Himachal Pradesh and we hold that the Chief Commissioner did not act either illegally or improperly in proceeding to fill the vacancy by election through an Electoral College.

The next contention is that, in any case, the constituency consisted of Himachal Pradesh and Bilaspur in view of the amendment of the Annexure and the Chief Commissioner should, therefore, have taken into account the claims of Bilaspur in the formation of the Electoral College. The evidence does show that the Chief Commissioner, Himachal Pradesh, was not aware that Bilaspur had any thing to do with this election .This is not really surprising considering that the seat which was declared vacant was a seat from Himachal Pradesh and the request of the President had clearly mentioned this. The Chief Commissioner proceeded to fill that seat accordingly. It appears to us that our reasoning in respect of the non-retrospective effect of the amendment of paragraph 4 of the Schedule would apply with equal force to the amendment of the Annexure to the Schedule which amendment was made only on 6th December 1949. Even apart from that, however, we find that under the rules governing this matter the Chief Commissioner had ample powers to form an Electoral College as he thought best, and he was fully entitled to ignore any part of the constituency if he so thought fit. The learned Counsel for the Petitioner conceded before us that if the Chief Commissioner had actually considered the case of Bilaspur and then refused to nominate anybody from Bilaspur to the Electoral College, no objection could have been taken to his act. He, however, contended that although the Chief Commissioner was not bound to nominate anybody from Bilaspur itself, he was in some manner bound to bring it to his consciousness that Bilaspur was a part of the constituency and it is his failure to have cognizance of this matter at all which invalidates the formation of the Electoral College. We are unable to see any force in this argument. All we are concerned with is whether what the Chief Commissioner actually did was or was not within his power. It is not suggested that the Chief Commissioner was not competent to nominate the persons he actually did nominate to the Electoral College, nor that he was not competent to ignore all other claimants. We find that what the Chief Commissioner actually did was entirely within his powers under the rules and we are therefore unable to hold that in the formation of the Electoral College he in any manner acted irregularly or exceeded his powers. This disposes of issues Nos. 2—4. The 5th issue does not of course arise in view of our findings.

Issues No. 6 and 7.

Issues No. 6 and 7 are connected. The contentions of the learned Counsel for the Petitioner with regard to this matter are that there was no proper appointment of the Returning Officer and that at the meeting of the Electoral College there were no rules observed regarding scrutiny, obtaining of consent and allowing opportunity for withdrawal.

In so far as the appointment of the Returning Officer is concerned, we find that there is a notification by the Chief Commissioner dated 4th January 1950 appointing the Deputy Commissioner, Mahasu as the Returning Officer for the Electoral College meeting. As the Chief Commissioner was empowered by paragraph 4(2) of the Schedule to the Rules of Procedure and Standing Orders—Constituent Assembly of India, to form the Electoral College, we see no reason to hold that he was not competent to appoint the Returning Officer.

It is common ground that, besides rule 5-A and paragraph 4 of the Schedule, there were no other rules governing this election. From the nature of the election in this case it is evident that no elaborate rules were really necessary, apart from compliance with the general principles of election.

The objection regarding the fixing of date for nomination and the obtaining of consent has no force. The members of the Electoral College had ample notice about the date of the meeting, which was called to elect a representative and nominations had naturally to be made the same day. When the meeting was held the Returning Officer called for nominations and three nomination papers were actually submitted. No time for obtaining consent was obviously necessary as such consent ought to have been obtained before the nominations were made. There were no withdrawals nor was there any necessity for allowing time for scrutiny because no objection was raised to any nomination.

The learned Counsel for the Petitioner has also urged that the secrecy of 'ballot' was not observed at the meeting because members were sitting in the same room and marked their ballot papers while seated. There is no evidence however that the members saw each other's ballot papers when these were being marked. The ballot papers were checked by the Returning Officer and the result announced there and then. We fail to see how the secrecy of the ballot was violated

After hearing the learned Counsel at length we find that no fundamental principle of Election Law was transgressed and what is more we find that none of these alleged irregularities have in any manner affected the result of the election. There were 17 members of the Electoral College present and out of them 11 voted for the Respondent. the other six having walked out before the ballot papers were distributed. It is clear that the participation of those six members in the voting could not have in any manner affected the result of the election. We are thus unable to hold that there was any material irregularity in the conduct of the

election or that any such irregularity in any manner affected the result of the election. We find these issues against the Petitioner.

Issue No. 8.

We now come to the allegations concerning corrupt practices. It is alleged that the Respondent used or engineered the use of undue influence on the voters as he got a resolution passed by the Provincial Congress Committee supporting his own candidature and that the resolution was in the nature of a command which no Congressman dared disobey, so that their discretion in the matter of voting in the Electoral College was completely fettered. The relevant facts brought to light by the evidence are these. The Respondent at the material time was the President of the Provincial Congress Committee. On 8th December 1949, the Provincial Congress Committee had decided by a resolution to boycott this election on the ground that it was not proper for the Chief Commissioner to have retained with himself the right of nominating the members of the Electoral College without consulting the main political party. Subsequently it appears that the Congress High Command advised the Provincial Congress Committee not to stick to that resolution. A meeting of the Provincial Congress Committee was therefore summoned for 8th January 1950. Six or seven of the members of the Electoral College were also members of the Provincial Congress Committee and it is further in evidence that all the members of the Electoral College were members of the All India National Congress. The meeting of the Provincial Congress Committee was actually held on 9th January as there was no quorum on the 8th. The matter of withdrawing the previous resolution was discussed at length but no decision could be arrived at that day. The next day i.e. on 10th January, the Provincial Congress Committee resolved to withdraw the previous resolution. Immediately after that, another resolution was unanimously adopted stating that the sole candidate for the election would be Dr. Parmar and calling upon all Congressmen to support him. Copies of this resolution were apparently distributed to several members of the Electoral College. The case for the Petitioner is that this resolution of the Provincial Congress Committee was merely engineered by the Respondent who was the President, to benefit himself, and that the communication of this resolution to the members of the Electoral College immediately before the election, was a command which could not be disobeyed. There is no real evidence to show that the resolution was the result of any manipulation by the Respondent and we should normally think that other responsible members of the Provincial Congress Committee were in a position to form their own views. The matter however is not very material. The question we are to consider is whether such a resolution, even if communicated to the members of the Electoral College, amounted to the exercise of undue influence either by the Respondent or by the Provincial Congress Committee. It seems to us that learned Counsel's argument largely ignores the very vital distinction between what is 'due' and what is 'undue' influence. The Provincial Congress Committee has of course influence over its members, and we do not see why that body should not be permitted to use its legitimate influence in the course of an election. At page 328 of the 20th edition of Rogers on Elections, there is a very pertinent quotation from a decision by Willes J. which throws a flood of light on this distinction. He says "The law cannot strike at the existence of influence. The law cannot more take away from a man, who has property, or who can give employment, the insensible but powerful influence he has over those whom he can benefit by the proper use of his wealth, than the law could take away his honesty, his good feelings, his courage, his good looks, or any other qualities which give a man influence over his fellows. It is the abuse of influence with which alone the law can deal. Influence cannot be said to be abused because it exists and operates." In the fact that the Provincial Congress Committee decided to support the Respondent's candidature and passed a resolution to that effect, we can see nothing to which exception can be taken, nor does it appear that there was anything wrong in the Provincial Congress Committee calling upon members of the Congress to support the Respondent. It was contended that the Congress members and therefore the members of the Electoral College felt bound by this resolution, being afraid to disobey it even if it was against their own judgment. One member of the Electoral College Shri Bishan Singh (P.W. 6) stated that he felt that as a matter of discipline he was bound to obey the mandate contained in the resolution of the Provincial Congress Committee, while another member Mr. Kidar Ishwar (P.W. 8) stated that he thought that the directive contained in the resolution was without jurisdiction and he was not bound to obey it. The meaning of Mr. Bishan Singh's evidence really is that as he was a member of the Congress and as such an important body as the Provincial Congress Committee had decided to support the Respondent and asked or advised Congressmen to do so, he felt, that as member of the Congress, he ought to follow that advice. We do not see how it could be seriously maintained that there was such an element of compulsion about this resolution that anybody's discretion was completely fettered. It was suggested in the course of arguments that behind this resolution there was a threat that any member disobeying it may be expelled from the party. We have no evidence of any such threat and it does not in any sense follow from the language of the resolution. We feel satisfied that the Provincial Congress Committee were entitled to express their political opinion about the merits of a candidate and ask their supporters to support him. We cannot agree that this was abuse of influence, and we cannot therefore accept learned Counsel's suggestion that the Respondent or the Provincial Congress Committee exerted any undue influence over any elector.

Issue No. 9.

The next allegation is that some members of the Electoral College were housed in the Royal Hotel and 'lavishly' entertained by the Respondent at the expense of the Congress Committee. The evidence shows that the members of the Provincial Congress Committee and two or three other members of the Electoral College were putting up at the Royal Hotel and that arrangements for their stay there had been made by Shri Padam Dev, President of the District Congress Committee. The evidence further is that the members of the Provincial Congress Committee were the guests of the Mahasu District Congress Committee as they were meeting in Simla and their ordinary expenses were paid by the District Congress Committee. It is contended on behalf of the Petitioner, much against the evidence of the Petitioner's own witnesses, that in fact the expenses were paid by Dr. Parmar or at any rate by Shri Padam Dev on behalf of Dr. Parmar. The expenses are entered in the books of the Mahasu District Congress Committee and it is hard to believe that these entries, apparently relied upon by the Petitioner himself, were not genuine. Leaving this matter alone it appears to us that the amount of money shown to have been spent in this connection is so insignificant that even if it had been proved that the money came from Dr. Parmar, we would have been hardly able to say that it was spent with a corrupt motive. It appears that in all Rs. 230 were spent on the stay of 9 people for more than 3 days in the hotel and apart from them several other Congress workers used to visit them and have tea etc. there. It is impossible to believe that anybody with any intelligence could have ever hoped that 8 or 9 presumably respectable persons could be induced to vote for a particular person on account of this so called 'lavish' entertainment. We find in the circumstances that the Respondent is not shown to have spent any money either himself or through his agent on the entertainment of any member of the Electoral College and further that the amount shown to have been spent is so small that no one spending it could have done so with a corrupt motive in the sense of attempting to induce these persons to vote in a particular manner. The issue thus goes against the Petitioner.

Issue No. 10.

Regarding 60 gallons of petrol the story has come from the Respondent himself, no evidence having been called to prove any relevant fact in that connection by the Petitioner. What appears to have happened is that a lady belonging to Chamba, who was a member of the Provincial Congress Committee and also a member of the Electoral College, happened to be in Gurdaspur. She was in a family way. A telegram was sent by a Congress member, Mehta Autar Chand of Chamba, to the Provincial Congress Committee at Simla suggesting that some transport for the lady may be arranged. Dr. Parmar was in Nahan at the time and this telegram was forwarded to him there as he was the President of the Provincial Congress Committee. Dr. Parmar applied for 60 gallons of petrol coupons. They were actually taken by one Dr. Davindar Singh, a member of the District Congress Committee and Dr. Devindar Singh got hold of a car belonging to another member of the Congress Committee and that car was presumably sent to Pathankot from where it went to Gurdaspur to take the lady to Simla. Dr. Parmar has denied on oath that he spent any money in this connection. In the face of this evidence the only contention was that Dr. Devindar Singh must be deemed to have been an agent of Dr. Parmar and if he spent any amount on the conveyance of the lady member he must be taken to have done so on behalf of the Respondent. There is in fact no evidence before us that Dr. Devindar Singh spent any money and for all we know the expenses may have been borne by the lady herself It is quite clear from the circumstances that what appened was that the President of the Provincial ngress Committee with the help of some members f the District Congress Committee at Nahan arranged or a transport

to fetch a member of the Provincial Congress Committee to Simla and we cannot see anything suspicious in such an incident. It does not in our opinion amount to a corrupt practice in any sense of that word much less does it fall within the definition of corrupt practice according to the Election Law. We therefore find this issue against the Petitioner.

Issue No. 11.

Issue No. 11 has really been dealt with by us while discussing the 8th issue. It is sufficient to say that there is no evidence that the Respondent was guilty of any fraudulent practice in getting the resolution supporting him passed by the Provincial Congress Committee, nor does it appear to us how any such fraud if practised by the Respondent on the Provincial Congress Committee, would be relevant to the present controversy. We find the issue against the Petitioner.

Issue No. 12.

The 12th issue does not arise.

Issue No. 13.

The 13th issue was insisted upon under the impression that the provisions of Section 35-A of the Civil Procedure Code would be applicable to these proceedings. Both Counsel however agreed before us that these provisions are not applicable and that we cannot award any special costs to either party.

In view of our findings we feel satisfied that the Respondent was duly elected and we, therefore, recommend that the present Petition be dismissed. In view of all the circumstances of this case, we would further recommend that the parties be left to bear their own costs.

SIMLA;
1st *November*, 1950.

S. S. DULAT,
President.
PARTAP SINGH,
Member.
E. MUKARJI,
Member.

K. V. K. SUNDARAM, Secy.

MINISTRY OF COMMERCE

PUBLIC NOTICES

IMPORT TRADE CONTROL

New Delhi, the 25th November 1950

SUBJECT:—*Export Promotion Scheme*

No. 148-ITC(PN)/50.—The attention of importers is invited to the Ministry of Commerce Public Notices Nos. 130-ITC(PN)/50 & 137-ITC(PN)/50, dated the 30th October 1950 and 3rd November 1950 respectively extending Export Promotion Scheme to the import of raw silk and Ivory falling under S. Nos. 172 & 14 respectively of Part IV of Import Trade Control Schedule.

2. It should be noted that import of raw silk will be allowed against export of manufactured articles consisting entirely of silk (including piece goods containing upto 90 per cent. silk) and import of unmanufactured Ivory will be allowed against export of manufactured Ivory.

SUBJECT:—*Import of Liquid Glucose for Confectionery manufacturers.*

No. 149-ITC(P.N.)/50.—The attention of importers is invited to the entries against Serial Number 108 of Part V of the Import Trade Control Schedule in Appendix 'B' attached to Public Notice No. 14-ITC(P.N.)/50, dated the 15th June, 1950 in which it was shown that no licences would be granted to actual users for imports of Glucose from the Soft Currency Areas for July-December 1950 or January-June 1951 licensing periods.

2. It has now been decided that licences for Glucose (other than medicinal Glucose) will be granted to actual users in respect of each of the above periods to the extent of six months' requirements in each case. Applications in this behalf should be submitted to the Import Trade Controller, Calcutta, Bombay or Madras according to whether the factory concerned is located in areas 'A', 'B' or 'C' described in Appendix 'Q' to the above mentioned Public Notice. Such applications should reach the Import Trade Controller concerned not later than the 31st March 1951.

New Delhi, the 28th November 1950

SUBJECT:—*Inclusion of 'ASAFOEDITA' in the list of essential drugs and medicines allowed to be imported from soft currency area during July-December* 1950 *and January-June* 1951.

No. 151-ITC(P.N.)/50.—It has been decided to include 'ASAFOETIDA' falling under Serial No. 31, Pt. V of the Import Trade Control Schedule in the list of essential drugs and medicines licensable under a general quota from the Soft Currency Area shown in category (d) of List (iii) in Appendix 'S' to the Government of India, Ministry of Commerce, Public Notice No. 14-ITC(P.N.)/50, dated 15th June 1950.

2. Licences already granted under the General Quota in question for July-December 1950 or January-June 1951 will be amended to include 'ASAFOETIDA' on the licence-holders approaching the issuing authorities concerned in that behalf.

3. Licences issued hereafter for the periods in question will be made valid at the time of issue for 'ASAFOETIDA' in addition to the other articles mentioned in category (d) of list (iii) in Appendix 'S'.

R. J. PRINGLE, Joint Secy.

RESOLUTION

TARIFFS

New Delhi, the 2nd December 1950

No. 1-T.A(58)/49.—In pursuance of paragraphs 2 and 7 of their Resolution in the Department of Commerce, No. 218-T(55)/45, dated the 3rd November 1945, and paragraph 4 of their Resolution bearing the same number, dated the 16th February 1946, the Government of India have decided to refer to the Tariff Board for investigation applications for assistance or protection received from the following industries, namely:—

(i) Machine screw, and

(ii) Hydroquinone.

2. In conducting the enquiries, the Board will be guided by the principles laid down in paragraph 5 of the Resolution, dated the 3rd November 1945, referred to in paragraph 1 above.

3. Firms or persons interested in any of these industries or in industries dependent on the use of these articles who desire that their views should be considered by the Tariff Board should address their representations to the Secretary to the Board, Contractor Building, Nicol Road, Ballard Estate, Bombay 1.

ORDER

ORDERED that a copy of this Resolution be communicated to all concerned and that it be published in the *Gazette of India*.

S. RANGANATHAN, Joint Secy.

MINISTRY OF INDUSTRY AND SUPPLY

PUBLIC NOTICE

Calcutta, the 24th November 1950

Import of Iron and Steel—January-June 1951

No. SEBI-12(13)/50.—It is hereby notified for general information that the Public Notice dated the 6th November 1950, and published in the Press, the Indian Trade Journal, dated the 16th November 1950 and the *Gazette of India* (Part I, Section 1), dated the 18th November 1950, is amended as follows:—

1. The last dates for receiving applications are extended for a period of twenty days in respect of each item.

2. All applications are to be forwarded to the Assistant Iron & Steel Controller, Steel Import Control, 33, Netaji Subhas Road, Calcutta 1.

3. General Condition No. 5 as published in the *Gazette of India* (Part I, Section 1), dated the 18th November 1950 and reading as follows will be observed:—

"5. All steel processing factories or fabricating firms who are now obtaining their requirements of steel either from the Director General of Industry and Supply or the State Government, may submit their applications direct to the

Iron & Steel Controller who will issue the necessary import licence to meet their six months' requirements taking into account their capacity as assessed by the authority releasing steel and the allotments made to them from indigenous sources, subject to the availability of foreign exchange and the price being reasonable."

M. L. MITRA,
Asstt. Iron & Steel Controller
for Iron and Steel Controller,
Steel Import Controller.

MINISTRY OF AGRICULTURE

RESOLUTIONS

New Delhi, the 22nd November 1950

No. [illegible]9-23/50-Com.—In Clause (i) of paragraph 3 of the Resolution of the Government of India in the Ministry of Agriculture No. F.43-11/48-Comm., dated the 21st May 1949, constituting the Indian Central Arecanut Committee, for the words "The Minister for Agriculture" substitute "The Deputy Minister of Food and Agriculture, Government of India".

No. F.2-59/50-M.—On the recommendation of the Indian Tariff Board, the Government of India constituted an Advisory Panel to advise the Government on matters relating to the production and consumption of superphosphate in the country, *vide* the Ministry of Agriculture Resolution No. F.1-40/49-M., dated the 23rd November 1949. The term of office of the Trade representatives on the Panel expires on the 22nd November 1950. The Government of India have, accordingly resolved to reconstitute the Panel as follows:—

(1) Additional Secretary, Ministry of Agriculture, Government of India. (Chairman);

(2) Deputy Secretary dealing with fertilisers, Ministry of Agriculture, Government of India;

(3) A representative of the Ministry of I. & S., Government of India;

(4) A representative of the Government of Madras;

(5) A representative of the Government of Bihar;

(6) A representative of the Manure Mixing Firms for Tea Gardens;

(7) to (11) 5 representatives to be nominated by the Superphosphate Manufacturers.

2. The Panel as reconstituted above will function for a period of one year.

ORDER

ORDERED that a copy of this resolution be communicated to all State Governments; the Ministry of Commerce; the Ministry of I. & S.; the Ministry of Finance; and the Auditor General of India.

ORDERED also that it be published in the *Gazette of India*.

No. F.7-29/50-Com.—In accordance with the terms of the Government of India in the late Department of Education, Health and Land, Resolution No. F-41-24/43-A., dated the 6th June 1944, the Vice-Chairman, Indian Council of Agricultural Research, was made the *ex-officio* President of the Indian Central Sugarcane Committee. He is also the *ex-officio* President of several other Commodity Committees and the volume of work in each of these committees has increased appreciably. In particular, he has now to devote considerable time to the jute and cotton development schemes which require frequent touring. The Government of India have, therefore, decided to relieve the Vice-Chairman, Indian Council of Agricultural Research, from the Presidentship of the Indian Central Sugarcane Committee. Clause (1) of paragraph 4 of the aforesaid Resolution has, accordingly been modified to read as follows:—

"The Deputy Minister of Food and Agriculture, Government of India, shall be the *ex-officio* President of the Committee."

K. L. PANJABI, Secy.

New Delhi, the 23rd November 1950

No. F.3-147 JC/50-Com.—*Corrigendum.*—In the Ministry of Agriculture's Notification of even No. dated the 28th August 1950, published in Part I, Section 1 of the *Gazette of India*, dated the 2nd September 1950, *for* "In sub-rule (5) of Rule 15" *substitute* "In sub-rule (5) of Rule 14".

A. N. BERY, Under Secy.

MINISTRY OF EDUCATION

ARCHÆOLOGY

New Delhi, the 22nd November 1950

No. D.5833/50-A.2.—*Corrigendum.*—The following amendments are made in the Schedule annexed to the Notification of the Government of India in the Ministry of Education No. 5833/50-A2, dated the 12th October 1950, published in the *Gazette of India*, dated the 21st October 1950, Part I, Section 1:—

Item No.	*Column No.*	*For*	*Read*
1.	2	Sarli	Savli
1.	8	Ghoflaru	Ghodiaru
9.	7	Ganchar	Gauchar.

B. CHATTERJEE, Under Secy.

MINISTRY OF RAILWAYS
(Railway Board)

New Delhi, the 25th November 1950

No. E48CPC/3Pt.I.—In exercise of the powers conferred by the proviso to Article 309 of the Constitution, the President is pleased to direct that the following further amendments shall be made in the Railway Services (Revision of Pay) Rules, 1947, namely.—

In the Schedule annexed to the said rules under the head "7. Junior Administrative Posts" the designations of the following officers on the B.N. Railway may be changed as under:—

"Superintendent Running Repairs	shall be substituted by Dy. Chief Mechanical Engineer (Maintenance).
Superintendent Mechanical Workshops	shall be substituted by Dy. Chief Mechanical Engineer (Workshops).
Superintendent Equipment	shall be substituted by Dy. Chief Mechanical Engineer (Equipment)."

S. S. RAMASUBBAN, Secy.

MINISTRY OF LABOUR

DIRECTORATE GENERAL OF RESETTLEMENT AND EMPLOYMENT

New Delhi, the 27th November 1950

No. RCO-42.—In continuation of this Ministry's Notification No. RCO-42, dated the 8th July 1950, regarding the Constitution of the Regional Employment Advisory Committee for Bombay, the Government of India are pleased to appoint the following person as an additional member of the said Committee:—

Shri K. V. Joshi, Personnel Manager, Indian Naval Dockyard, Bombay.

M. V. NILAKANTA AYYAR, Under Secy.